

Nicholas J. Neidzowski, CSB #273020  
[nick@boatlaw.com](mailto:nick@boatlaw.com)  
ANDERSON CAREY WILLIAMS & NEIDZWSKI  
21 Bellwether Way, Suite 104  
Bellingham, Washington 98225  
Telephone: 360-671-6711  
Facsimile: 360-647-2943  
Attorneys for Claimant/Respondent  
GILBERTO SANTIAGO OTANEZ,  
Personal Representative of the Estate of  
ARNULFO SANTIAGO SOLIS

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
(OAKLAND DIVISION)

IN THE MATTER OF THE COMPLAINT  
OF ROBERT E. KELLEY AND  
RICHARD E. KELLEY, SUCCESSOR  
CO-TRUSTEES AND BENEFICIARIES  
OF THE EUGENE M. KELLEY AND  
VERNA L. KELLEY REVOCABLE  
LIVING TRUST, AS OWNERS AND/OR  
OPERATORS OF THE VESSEL F/V  
MISS HAILEE, OFFICIAL NUMBER  
524780, FOR EXONERATION FROM  
AND/OR LIMITATION OF LIABILITY

CASE NO.: 4:20-CV-01384-HSG

**JOINT STIPULATION AND  
~~PROPOSED~~ ORDER TO STAY  
LIMITATION ACTION AND TO  
LIFT INJUNCTION**

Claimant/Respondent, Mr. Gilberto Santiago Otanez, personal  
representative of the Estate of ARNULFO SANTIAGO SOLIS (hereinafter  
“Claimant”), by and through Claimant’s undersigned counsel, and Limitation

Plaintiffs Robert E. Kelley and Richard E. Kelley, Successor Co-Trustees and  
JOINT STIPULATION AND ~~PROPOSED~~ ORDER  
TO STAY LIMITATION ACTION AND TO LIFT  
INJUNCTION  
CASE NO.: 4:20-CV-01384-HSG

**ANDERSON CAREY  
WILLIAMS & NEIDZWSKI**  
21 Bellwether Way, Suite 104  
Bellingham, Washington 98225  
(360) 671-6711 - Fax (360) 647-2943

1 Beneficiaries of the Eugene M. Kelley and Verna L. Kelley Revocable Living  
2 Trust (“Limitation Plaintiffs”), by and through Limitation Plaintiffs’ undersigned  
3 counsel, hereby file the following joint stipulation regarding the above entitled  
4 case (hereafter the “Limitation Action”) and Claimant’s separate action, *Gilberto*  
5 *Santiago Otanez, Personal Representative of the Estate of Arnulfo Santiago Solis*  
6 *v. Richard E. Kelley, et al.*, Case 4:20-cv-04424-DMR (N.D. Cal.) (hereinafter  
7 “Personal Injury Tort Case Action”).  
8

9        Provided that this Court lifts its Injunction of May 12, 2020 (Docket No. 17)  
10 and stays this Limitation Action to permit Claimant to proceed against Limitation  
11 Plaintiffs in the Personal Injury Tort Case Action, Claimant and Limitation  
12 Plaintiffs stipulate and agree as follows:

13            1.        That Limitation Plaintiffs have the right to litigate the issue of  
14 whether they are entitled to limit their liability under the provisions of the  
15 Limitation of Liability Act, 46 U.S.C. § 30505 *et seq.*, in this Court, and that this  
16 Court has exclusive jurisdiction to determine this issue.  
17

18            2.        That Limitation Plaintiffs have the right to have this Court determine  
19 the value of the limitation fund and the combined value of the vessel, the MISS  
20 HAILEE, and its cargo, and that this Court has exclusive jurisdiction to determine  
21 these issues.  
22

23            3.        That Claimant will not seek a determination of the issues set forth in  
24 paragraphs (1) and (2) above in any state court or any forum other than in the

25 JOINT STIPULATION AND ~~PROPOSED~~ ORDER  
TO STAY LIMITATION ACTION AND TO LIFT  
INJUNCTION  
CASE NO.: 4:20-CV-01384-HSG

**ANDERSON CAREY**  
**WILLIAMS & NEIDZWSKI**  
21 Bellwether Way, Suite 104  
Bellingham, Washington 98225  
(360) 671-6711 - Fax (360) 647-2943

1 Limitation Action, and consents to waive the right to claim res judicata or issue  
2 preclusion effect the decisions, rulings or judgements of any other court might have  
3 on those issues; and

4 4. That Claimant will not seek to enforce any judgment rendered in any  
5 forum outside of this limitation proceeding against Limitation Plaintiffs that would  
6 expose Limitation Plaintiffs to liability in excess of the limitation fund, unless and  
7 until this Court denies Limitation Plaintiffs' right to limit liability. If this Court  
8 grants Limitations Plaintiffs' request for limitation the Claimant will not seek to  
9 enforce any judgment that would require Limitation Plaintiffs to pay damages in  
10 excess of the limitation fund.  
11

12 DATED this 25<sup>th</sup> day of August 2020.

13  
14 ANDERSON CAREY WILLIAMS & NEIDZWSKI

15 /s/ Nicholas J. Neidzwski

16 Nicholas Neidzwski, CSB #273020

17 21 Bellwether Way, Suite 104

18 Bellingham, WA 98225

19 Telephone: 360-671-6711

20 Fax: 360-647-2943

21 E-mail: nick@boatlaw.com

22 Attorneys for Claimant/Respondent

23 GILBERTO SANTIAGO OTANEZ,

24 Personal Representative of the Estate of

25 ARNULFO SANTIAGO SOLIS

JOINT STIPULATION AND ~~(PROPOSED)~~ ORDER  
TO STAY LIMITATION ACTION AND TO LIFT  
INJUNCTION  
CASE NO.: 4:20-CV-01384-HSG

**ANDERSON CAREY  
WILLIAMS & NEIDZWSKI**  
21 Bellwether Way, Suite 104  
Bellingham, Washington 98225  
(360) 671-6711 - Fax (360) 647-2943

HOLMES WEDDLE & BARCOTT, P.C.

/s/ Michael A. Barcott

Michael A. Barcott, CSB #73681

3101 Western Ave., Suite 500

Seattle, Washington 98121

Telephone: 206-292-8008

Fax: 206-340-0289

E-mail: [mbarcott@hwb-law.com](mailto:mbarcott@hwb-law.com)

Attorneys for Limitation Plaintiffs

Robert E. Kelley and Richard E. Kelley, Successor Co-  
Trustees and Beneficiaries of the Eugene M. Kelley and  
Verna L. Kelley Revocable Living Trust

**[PROPOSED] ORDER**

Pursuant to the foregoing Joint Stipulation, IT IS SO ORDERED that the  
above entitled case, *In The Matter Of The Complaint Of Robert E. Kelley, et al.*,  
Case No. 20-cv-01384-HSG (“Limitation Action”), is stayed and the Injunction in  
this Limitation Action of May 12, 2020 (Docket No. 17) is lifted. The Limitation  
Action will remain stayed until one party requests otherwise. The Court further  
directs the parties to submit a joint status report every six months, or within 14 days of a  
decision or other resolution of claimant’s separate action, Gilberto Santiago Otanez,  
Personal Representative of the Estate of Arnulfo Santiago Solis v. Richard E. Kelley, \_  
Case 4:20-cv-04424-DMR (N.D. Cal.).

Dated: 8/28/2020



Hon. Haywood S. Gilliam, Jr.

United States District Judge

JOINT STIPULATION AND [PROPOSED] ORDER  
TO STAY LIMITATION ACTION AND TO LIFT  
INJUNCTION  
CASE NO.: 4:20-CV-01384-HSG

**ANDERSON CAREY  
WILLIAMS & NEIDZWSKI**  
21 Bellwether Way, Suite 104  
Bellingham, Washington 98225  
(360) 671-6711 - Fax (360) 647-2943